

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MOLLY WINN,

Plaintiff,

- against -

KATHY KUO DESIGNS, LLC,

Defendant.

Docket No. 17-cv-03883

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Molly Winn (“Winn” or “Plaintiff”), by and through her undersigned counsel, as and for her Complaint against Defendant Kathy Kuo Designs, LLC (“KK Designs” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of a bedroom in Chip and Joanna Gaines’ farmhouse, owned and registered by Winn, a Texas photographer. Accordingly, Winn seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

## **PARTIES**

5. Winn is a professional photographer in the business of licensing her photographs to online, print, and television media outlets for a fee, having a usual place of business at 2514 Colcord Avenue, Waco, Texas 76707. Winn's photographs have appeared in many publications around the United States.

6. Upon information and belief, KK Designs is a limited liability company duly organized and existing under the laws of the State of New York, with a place of business at 3816 Waldo Avenue, Suite 2A, Riverdale, New York 10463. Upon information and belief, KK Designs is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, KK Designs has owned and operated a website at the following URL: [www.kathykuohome.com](http://www.kathykuohome.com) (the "Website").

## **STATEMENT OF FACTS**

### **A. Background and Plaintiff's Ownership of the Photograph**

7. On February 28, 2014, Winn photographed a bedroom in Chip and Joanna Gaines'<sup>1</sup> Texas farmhouse (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Winn is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VA 2-034-831.

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1. Chip and Joanna Gaines are the co-stars of HGTV's *Fixer-Upper*, a reality television series.

**B. Defendant's Infringing Activities**

10. On or after September 30, 2014, KK Designs ran an article on the Website entitled *Kids Room Ideas You'll Love That They'll Go Crazy Over*. See <https://www.kathykuohome.com/blog/kids-room-ideas-youll-love-that-theyll-go-crazy-over/>. The article prominently featured the Photograph. A true and correct copy of the article is attached hereto as Exhibit B.

11. KK Designs did not license the Photograph from Plaintiff for its article, nor did KK Designs have Plaintiff's permission or consent to publish the Photograph on its Website.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST KK DESIGNS)**  
**(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. KK Designs infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on its Website. KK Designs is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the aforementioned acts of infringement by KK Designs have been willful, intentional and purposeful, in disregard of and with indifference to Plaintiff's rights.

16. As a result of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover her damages and Defendant's profits pursuant to 17 U.S.C. § 504(b).

17. Defendant's conduct, described above, is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant KK Designs be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

### **DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
May 23, 2017

LIEBOWITZ LAW FIRM, PLLC

By: /s/ Kamanta C. Kettle

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